

*IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH.*

Crl. Writ No. 669 of 2007.

Date of Decision: 29th October, 2007..

Nazar Singh ...Petitioner

through
Mr. S.S.Rangi, Advocate

Versus

State of Punjab .

...Respondent
through
Mr. Rajesh Bhardwaj, DAG, Punjab.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

SURYA KANT, J.(ORAL)

In this Criminal Writ Petition under Article 226 of the Constitution of India, the petitioner seeks a writ in the nature of Habeas Corpus for the release of his wife – Rihana Khatoon @ Sukhpreet Kaur, who is alleged to have been illegally detained by private respondents NO. 5 to 8.

On 9th August, 2007, the following order was passed by this Court:-

“As per the office report, notices sent to respondents No. 5 to 8 have been received back with the report that they have gone “out of station”. It appears that they are

evading service.

On a query by the Court as to what steps have been taken by the Punjab Police to trace out the alleged detenu, Mr. Rajesh Bhardwaj, learned DAG, Punjab has produced a Photostat copy of the statement, purported to have been made by Rehana Khatun @ Sukhpreet Kaur, under Section 164 Cr.P.C. before the learned Judicial Magistrate, Sidarth Nagar on 12.6.2007. In the said statement, she has categorically admitted that she got married to the petitioner and thereafter they lived together as husband and wife and she was having six months' pregnancy from her husband. She further deposed that her father brought her back to the village with the promise that no harm shall be caused to the child in her womb and she will be remarried with the petitioner as per Islamic religion and customs. The girl further stated that the Court should obtain in writing from her father that there shall not be any danger to the child in her womb.

Learned State Counsel has also produced Photostat copy of the order dated 13.6.2007, passed by the learned CJM, Sidarth Nagar wherein it is stated that the age of Rehana Khatun is below 18 years and when the Court wanted to know from her as to with whom she wants to live, she allegedly wanted to accompany her father and in view of the said statement, her custody was

allegedly handed-over to her father only.

If one reads the statement made by Rehana Khatun under Section 164 Cr.P.C. on 12.6.2007, the above quoted observations made by the learned CJM, Sidarth Nagar in his order dated 13.6.2007, can not be reconciled. There is an apparent contradiction. In these circumstances, it can not be ruled out that the statement made by Rehana Khatun that she wanted to live with her father, was made under the undue influence and coercive method.

Be that as it may, in order to ensure that the fundamental right guaranteed to Rehana Khatun under Article 21 of the Constitution of India is not breached by any one, it is imperative that she should be produced before this Court so as to find out her free and fair view point.

Consequently, the Senior Superintendent of Police Patiala, from whose jurisdiction Rehana Khatun was removed by her father, is directed to take all necessary steps, in accordance with law, to ensure her production in Court on the adjourned date.

Meanwhile, arrest of the petitioner in any case registered against him in relation to abduction or kidnapping etc. of Rehana Khatun, shall remain stayed.

Adjourned to 29.10.2007.

Let a copy of this order be supplied to learned State Counsel under the signatures of the Special Secretary for information and compliance thereof”.

It is stated by learned State Counsel that in deference to the above reproduced order, ASI Kehar Singh firstly went to Police Station at Sidarth Nagar and thereafter visited the village Kodra Gram, where the alleged detainee is stated to have been detained. It is stated that since the local police refused to cooperate with the aforesaid police official and the alleged detainee and her family members were not found residing at the given address, no effective steps could be taken to comply with the directions given above.

Since the alleged detainee is stated to be detained at a place beyond the territorial jurisdiction of this Court, this petition is disposed of with liberty to the petitioner to file an appropriate petition, if so advised, before the Court of competent jurisdiction. However, ad-interim protection against arrest, as granted vide the order, reproduced above, shall continue.

Disposed of.

October 29, 2007.
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(SURYA KANT)
JUDGE